

REMARKS

Applicants and the undersigned are most grateful for the time and effort accorded the instant application by the Examiner. This submission is made in response to the Final Office Action dated January 29, 2009. Claims 1-10, 12-21, and 26-32 were pending in the instant application at the time of the outstanding Office Action. Claims 1, 15, and 29 are independent claims; the remaining claims are dependent claims. Claims 1-10, 12-21, and 26-32 stand rejected. The Office is respectfully requested to reconsider the rejections present in the outstanding Office Action in light of the foregoing amendments and the following remarks.

It should be noted that Applicants have amended and cancelled certain claims in this application. Applicants are not conceding in this application that those claims are not patentable over the art cited by the Examiner, as the present claim amendments and cancellations are only for facilitating expeditious prosecution of the instant application. Applicants respectfully reserve the right to pursue these and other claims in one or more continuations and/or divisional patent applications. Applicants specifically state no amendment to or cancellation of any claim herein should be construed as a disclaimer of any interest in or right to an equivalent of any element or feature of the amended claim.

Rejections Under 35 U.S.C. § 112, First Paragraph

Claims 1-10, 12-21, and 26-32 stand rejected under 35 U.S.C. § 112, first paragraph as failing to comply with the written description requirement. Specifically, the Examiner asserts that the claims contain subject matter not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventors, at the time the application was filed, had possession of the claimed invention. Applicants respectfully request reconsideration and withdrawal of these rejections.

The Examiner provides that page 5, lines 5-10 of the specification “only discloses repeating said attributing step until the individual is assessed, but **does not disclose repeating steps (a) – (c) until the identity of the individual is assessed.**” *Office Action*, p. 3 (emphasis in original). This is a narrow reading of the Specification, as the text cited by the Examiner represent one embodiment of the present invention.

Applicants respectfully direct the Examiner to p. 7, lines 8-17 of the Specification:

[W]hen a user needs to be authenticated or identified, the user speaks/walks/types, the profiler 104 operates in an ongoing manner, and thus issues group-match scores 108. In parallel, the confidence estimator 106 issues group-confidence scores 110. Once a given confidence measure meets a threshold, the user is deemed to belong to the corresponding user group. The system then preferably issues a *cue*. The identity determination process (either authentication or identification) is thus preferably released as a series of cues over time. When sufficient data is available, the final cue may be the user's identity.

Specification, p. 7, lines 8-17. This section of the Specification clearly discloses the claimed subject matter in such a way as to reasonably convey to one skilled in the relevant art that the Applicant's had possession of the claimed invention at the time the application was filed. Specifically, this section discloses: (a) accepting input from an

individual (“the user speaks/walks/types,” *Specification*, p. 7, line 9), (b) attributing a user group to the individual based upon the input (“Once a given confidence measure meets a threshold, the user is deemed to belong to the corresponding user group,” *Specification*, p. 7, lines 10-12), (c) issuing cues associated with the user group (“The system then preferably issues a *cue*,” *Specification*, p. 7, lines 12-13), and (d) repeating steps (a) – (c) until the identity of the individual is assessed (“The identity determination process (either authentication or identification) is thus preferably *released as a series of cues over time*. When sufficient data is available, *the final cue may be the user's identity*,” *Specification*, p. 7, lines 13-15 (emphasis added)). In order to release a series of cues over time, steps (a) – (c) must be repeated because they are necessary to generate the cues. The final generated cue may be the user’s identity, such that steps (a) – (c) may be repeated until the user’s identity is assessed.

Applicants therefore respectfully disagree with the Examiner’s assertion that the *Specification* “**does not disclose repeating steps (a) – (c) until the identity of the individual is assessed.**” *Office Action*, p. 3, (emphasis in original). Applicants respectfully submit that there is clear support for repeating steps (a) – (c) until the identity of the individual is assessed. Therefore, Applicants respectfully request reconsideration and withdrawal of these rejections.

Rejections under 35 U.S.C. § 102(b)

Claims 1-6, 8-10, 12-20, and 26-31 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Kanevsky et al. (U.S. Patent No. 6,529,871) (hereinafter the '871 patent). Applicants respectfully request reconsideration and withdrawal of these rejections.

As best understood, the '871 patent teaches a method for controlling access to services and facilities through, *inter alia*, random questioning of users, speech recognition, or speaker identifying indicia. '871, *Abstract; Specification*, Col 3, lines 25-34; Col 3, lines 35-4; Col 4, lines 9-15.

As the Examiner is no doubt aware, "[a]nticipation requires the disclosure in a single prior art reference of each element of the claim under construction." *W.L. Gore & Associates, Inc. v. Garlock*, 721 F.2d 1540, 1554 (Fed. Cir. 1983); see also *In re Marshall*, 198 U.S.P.Q. 344, 346 (C.C.P.A. 1978). Applicants respectfully submit that the '871 patent clearly falls short of teaching or suggesting all the claimed limitations. Among the many differences, the '871 patent does not disclose "issuing a cue associated with the user group." *Specification*, Claim 1. The Examiner states that this element is disclosed in the '871 patent in Col. 10, lines 52-55. *Office Action*, p. 4. However, this section of the '871 patent discusses the differences between external and internal static information, of which gender and accent are two examples, and is not directed toward issuing cues associated with user groups attributed to an individual. '871, Col. 10, lines 52-55.

Nonetheless, Applicants have amended and cancelled claims herein solely in an effort to facilitate expeditious prosecution of this application. Claim 4 was cancelled and its subject matter rewritten in claim 1. Claim 1 now recites, *inter alia*:

(a) accepting an input from an individual; (b) attributing a user group to the individual based upon the input; (c) issuing a cue associated with the user group; and (d) repeating steps (a) - (c) until the identity of the individual is assessed, the identity being assessed incrementally over a period of time via a series of issued cues; *wherein said repeating step further comprises performing a partial determination of the identity of the individual via issuing a stream of cues over time when there is insufficient input provided by the individual to perform a full identification.*

Similar amendments were made to independent claims 15 and 29. Applicants respectfully submit that the '871 patent fails to teach the above quoted claim language.

The Examiner states in the rejection of claim 4 that the '871 patent teaches the step of "performing a partial determination of the identity of the individual via issuing a stream of cues over time when there is an insufficient amount of inputs provided by the individual to perform a full identification" in Col. 7, lines 15 – 40. *Office Action*, p. 4. In this section of the '871 patent, a partial determination of the identity of the individual is not made. Rather, the system either identifies the individual and provides access, or does not identify the individual and denies access. '871, Col. 7, lines 35-40. In addition, this section of the '871 patent involves comparing partial scores "from the question/answer phase and the background speaker verification." '871, Col. 7, lines 30-34. However, input from the present invention is biometric data (e.g., voice) and does not additionally require data from a question and answer phase.

Therefore, Applicants respectfully request reconsideration and withdrawal of these rejections under 35 U.S.C. § 102(b).

Rejections under 35 U.S.C. § 103(a)

Claims 7 and 21 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over the '871 patent. Claim 32 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over the '871 patent in view of Kanevsky et al. (U.S. Patent No. 6,421,453) (hereinafter "the '453 patent"). Applicants respectfully request reconsideration and withdrawal of these rejections.

As best understood, the '453 patent teaches a system for controlling access to a computer, wherein a set of defined gestures are stored on the system for each individual wanting access during an enrollment session, and access is granted when an individual's gestures are recognized as those of an individual's gestures stored on the system. '453, *Abstract*; Col. 3, lines 29-35.

This stands in stark contrast to the instant invention, wherein "the system gradually *narrows down* the user's identity subset," *Specification*, p. 3, lines 3-5 (emphasis in the original), and "permits a user to be recognized to some degree *without the requirement of explicitly enrolling a model or template*," *Specification*, p. 3, lines 6-7 (emphasis added).

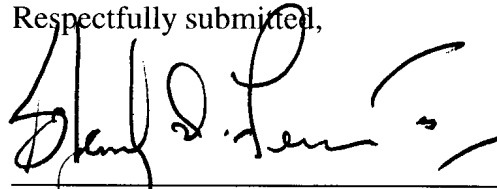
Applicants respectfully submit that the art of record does not teach or suggest the previously presented claim limitations, either considered alone or in any combination. Nonetheless, Applicants have amended independent claims 1, 15, and 29 solely to

facilitate expeditious prosecution of this application, as described above. Thus, Applicants respectfully submit that the claimed invention is patentable over the combined references and the state of the art. Accordingly, Applicants respectfully request reconsideration and withdrawal of the rejection.

Conclusion

It is respectfully submitted that the instant application, including Claims 1-3, 5-10, 12-17, 19-21 and 26-32, is presently in condition for allowance. Notice to that effect is hereby earnestly solicited. If there are any further issues in this application, the Examiner is invited to contact the undersigned at the telephone number listed below.

Respectfully submitted,



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